

# JOURNAL OF THE HOUSE

First Regular Session, 93rd GENERAL ASSEMBLY

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THIRTY-SECOND DAY, WEDNESDAY, MARCH 2, 2005

The House met pursuant to adjournment.

Speaker Jetton in the Chair.

Prayer by Reverend James Earl Jackson.

Heavenly Father, in Your strength we are glad and in Your victory we rejoice. You have given us our heart's desire and You have not withheld answers to our request. In You we trust and we are not disappointed.

May our message, method and our motive be clear, concise and purposeful as we continue our service to one another, this state and its constituents.

May our vision remain clear, our bodies strong and our integrity intact as we journey through the mountain of decisions before us.

Help us, O Lord, to maintain a wholesome dread of displeasing You and a clearly demonstrated honor for one another.

Now may the grace of our Lord rest and abide with each of us throughout this day.

In the victorious name of Your Son we pray. Amen.

The Pledge of Allegiance to the flag was recited.

The Speaker appointed the following to act as Honorary Pages for the Day, to serve without compensation: Brady Phillips, Intistar Faulkner, Devin Penson, Martha Scharff, Jennifer Burton, Eriq Kristek, Kyle Dedeaux, Connor Mulligan, Allie Rogers, Jordan Rogers, Bobbie Dampier and Jenna Lilly.

The Journal of the thirty-first day was approved as corrected.

## HOUSE COURTESY RESOLUTIONS OFFERED AND ISSUED

House Resolution No. 834 - Representative Behnen  
House Resolution No. 835 - Representative Dempsey  
House Resolution No. 836  
and  
House Resolution No. 837 - Representative Deeken

## SECOND READING OF HOUSE JOINT RESOLUTION

**HJR 21** was read the second time.

## SECOND READING OF HOUSE BILLS

**HB 662** through **HB 684** were read the second time.

## SECOND READING OF SENATE BILLS

**SCS SB 6, SB 122, SB 131, SB 211** and **SB 242** were read the second time.

Representative Cooper (120) assumed the Chair.

## THIRD READING OF SENATE BILL

**HCS SS SCS SBs 1 & 130**, relating to workers' compensation, was taken up by Representative Hunter.

Representative Pratt offered **House Amendment No. 1**.

### *House Amendment No. 1*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 1, In the Title, Line 6, by inserting after the word "provisions" the following:

", and an effective date for certain sections"; and

Further amend said bill, Page 6, Section 287.067, Lines 18 and 19, by deleting the phrase "**recognized as an occupational disease for the purposes of this chapter**"; and

Further amend said bill, Page 7, Section 287.067, Line 37, by inserting after the phrase "oxygen, **of**" the following:

"**paid**"; and

Further amend said bill, Page 7, Section 287.067, Line 37, by inserting at the end of said line the following:

"**paid**"; and

Further amend said bill, Page 7, Section 287.067, Line 46, by deleting "with a prior" and inserting in lieu thereof the following:

"with [a] **the immediate** prior"; and

Further amend said bill, Section 287.128, Pages 11-13, Lines 1-78, by deleting all of said section and inserting in lieu thereof the following:

"287.128. 1. It shall be unlawful for any person to [:

(1)] knowingly present or cause to be presented any false or fraudulent claim for the payment of benefits pursuant to a workers' compensation claim[:].

[(2)] **2. It shall be unlawful for any insurance company or self-insurer in this state to knowingly and intentionally refuse to comply with known and legally indisputable compensation obligations with intent to defraud.**

**3. It shall be unlawful for any person to:**

(1) Knowingly present multiple claims for the same occurrence with intent to defraud;  
 [(3)] Purposefully prepare, make or subscribe to any writing with intent to present or use the same, or to allow it to be presented in support of any false or fraudulent claim;

[(4)](2) Knowingly assist, abet, solicit or conspire with:

(a) Any person who knowingly presents any false or fraudulent claim for the payment of benefits;  
 (b) Any person who knowingly presents multiple claims for the same occurrence with an intent to defraud; or  
 (c) Any person who purposefully prepares, makes or subscribes to any writing with the intent to present or use the same, or to allow it to be presented in support of any such claim;

[(5)](3) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit;

[(6)](4) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant;

[(7)] (5) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud;

[(8)](6) Knowingly make or cause to be made any false or fraudulent material statement or material representation for the purpose of obtaining or denying any benefit;

[(9)](7) Knowingly make or cause to be made any false or fraudulent statements with regard to entitlement to benefits with the intent to discourage an injured worker from making a legitimate claim;

**(8) Knowingly make or cause to be made a false or fraudulent material statement to an investigator of the division in the course of the investigation of fraud or noncompliance.** For the purposes of subdivisions (6), (7), and (8) [9] of this subsection, the term "statement" includes any notice, proof of injury, bill for services, payment for services, hospital or doctors records, X ray or test results.

[2. It shall be unlawful for any insurance company or self-insurer in this state to:

(1) Intentionally refuse to comply with known and legally indisputable compensation obligations;  
 (2) Discharge or administer compensation obligations in a dishonest manner; and  
 (3) Discharge or administer compensation obligations in such a manner as to cause injury to the public or those persons dealing with the employer or insurer.

3.]**4. Any person violating any of the provisions of subsections 1 [and] or 2 of this section [or section 287.129,] shall be guilty of a class [A misdemeanor and,] D felony. In addition, the person shall be liable to the state of Missouri for a fine [not to exceed] up to ten thousand dollars or double the value of the fraud whichever is greater. Any person violating any of the provisions of subsection 3 of this section shall be guilty of a class A misdemeanor and the person shall be liable to the state of Missouri for a fine up to ten thousand dollars.** Any person who has previously pled guilty to or has been found guilty of violating any of the provisions of subsections 1. [and] 2 **or 3** of this section [or the provisions of section 287.129] and who subsequently violates any of the provisions of subsections 1 [and], 2 **or 3** of this section [or the provisions of section 287.129] shall be guilty of a class [D] C felony.

[4.] **5. It shall be unlawful for any person, company, or other entity to prepare or provide an invalid certificate of insurance as proof of workers' compensation insurance. Any person violating any of the provisions of this subsection shall be guilty of a class D felony and, in addition, shall be liable to the state of Missouri for a fine up to ten thousand dollars or double the value of the fraud, whichever is greater.**

**6.** Any person who knowingly misrepresents any fact in order to obtain workers' compensation insurance at less than the proper rate for that insurance shall be guilty of a class a misdemeanor. Any person who has previously pled guilty to or has been found guilty of violating any of the provisions of this section [or the provisions of section 287.129] and who subsequently violates any of the provisions of this section [or the provisions of section 287.129] shall be guilty of a class D felony.

[5.] **7. Any employer [failing] who knowingly fails to insure his liability pursuant to this chapter with intent to defraud shall be guilty of a class A misdemeanor and, in addition, shall be liable to the state of Missouri for a penalty in an amount equal to twice the annual premium the employer would have paid had such employer been insured or twenty-five thousand dollars, which amount is greater. After January 1, 2006, any person who has previously pled guilty to or has been found guilty of violating any of the provisions of this section [or the provisions of section 287.129] and who subsequently violates any of the provisions of this section [or the provisions of section 287] shall be guilty of a class D felony.**

[6.]**8.** Any person may file a complaint alleging fraud or noncompliance with this chapter with a legal advisor in the division of workers' compensation. The legal advisor shall refer the complaint to the fraud and noncompliance

unit within the division. The unit shall investigate all complaints and present any finding of fraud or noncompliance to the director, who may refer the file to the attorney general. The attorney general may prosecute any fraud or noncompliance associated with this chapter. All costs incurred by the attorney general associated with any investigation and prosecution pursuant to this subsection shall be paid out of the workers' compensation fund. Any fines or penalties levied and received as a result of any prosecution under this section shall be paid to the workers' compensation fund. Any restitution ordered as a part of the judgment shall be paid to the person or persons who were defrauded.

**9. Any and all reports, records, tapes, photographs, and similar materials or documentation submitted by any person, including the department of insurance, to the fraud and noncompliance unit or otherwise obtained by the unit pursuant to this section, used to conduct an investigation for any violation under chapter 287, shall be considered confidential and not subject to the requirements of chapter 610, RSMo. Nothing in this subsection prohibits the fraud and noncompliance unit from releasing records used to conduct an investigation to the local, state, or federal law enforcement authority or federal or state agency conducting an investigation, upon written request.**

[7.] **10.** There is hereby established in the division of workers' compensation a fraud and noncompliance administrative unit responsible for investigating incidences of fraud and failure to comply with the provisions of this chapter.

**11. Any prosecution for a violation of the provisions of this section or section 287.129 shall be commenced within three years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense. As used in this subsection, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting attorney having jurisdiction to prosecute the action.**

**12. By January 1, 2006, the attorney general shall forward to the division and the members of the general assembly, the first edition of an annual report of the costs of prosecuting fraud and noncompliance under this chapter. The report shall include the number of cases filed with the attorney general by county by the fraud and noncompliance unit, the number of cases prosecuted by county by the attorney general and county prosecutor, fines and penalties levied and received, and all incidental costs.";** and

Further amend said bill, Section 287.640, Page 32, Lines 1-22, by deleting all of said lines; and

Further amend said bill, Section 287.715, Page 35, Line 31, by deleting the word "ensuing" and inserting in lieu thereof the following:

**"following";** and

Further amend said bill, Section 287.715, Page 35, Line 55, by deleting the word "ensuing" and inserting in lieu thereof the following:

**"following";** and

Further amend said bill, Section 287.808, Page 37, Lines 5 to 8, by deleting all of said lines and inserting in lieu thereof the following:

**"is more likely to be true than not true.";** and

Further amend said bill, Section 287.616, Page 45, Line 9, by inserting after all of said line the following:

"287.642. The division of workers' compensation shall create in each of its area offices a public information program to assist all parties involved with an injury or claim under this chapter. [In providing assistance under this section, all of the division's legal advisors shall also act as public information persons and shall, upon request, meet with or otherwise provide information to employees, employers, insurers and health care providers and shall investigate complaints of possible violations of the provisions of this chapter. The division shall employ two additional legal advisors, one to be located in the St. Louis office and one to be located in the Jefferson City office. Assistance provided under this section shall not include representing the claimant in a compensation hearing provided for in section 287.470.]

Section B. The repeal and reenactment of sections 287.615 and 287.612, and the repeal of section 287.616 of Section A of this act shall become effective on January 1, 2006."; and

Further amend said title, enacting clause and intersectional references accordingly.

On motion of Representative Pratt, **House Amendment No. 1** was adopted.

Representative Smith (118) offered **House Amendment No. 2**.

*House Amendment No. 2*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Section 287.610, Pages 28-31, Lines 1-121, by deleting all of said section and inserting in lieu thereof the following:

"287.610. 1. [The division may appoint such number of administrative law judges as it may find necessary, but not exceeding twenty-five in number beginning January 1, 1999, with one additional appointment authorized as of July 1, 2000, and one additional appointment authorized in each succeeding year thereafter until and including the year 2004, for a maximum of thirty authorized administrative law judges.] **After August 28, 2005, the governor may appoint additional administrative law judges for a maximum of forty authorized administrative law judges.** Appropriations [for any additional appointment] shall be based upon necessity, measured by the requirements and needs of each division office. Administrative law judges shall be duly licensed lawyers under the laws of this state. Administrative law judges shall not practice law or do law business and shall devote their whole time to the duties of their office. [Any administrative law judge may be discharged or removed only by the governor pursuant to an evaluation and recommendation by the administrative law judge review committee, hereinafter referred to as "the committee", of the judge's conduct, performance and productivity.] **The director of the division of workers' compensation shall publish and maintain on the division's web site the appointment dates or initial dates of service for all administrative law judges.**

2. The division **director, as a member of the committee** shall [require and] perform, **in conjunction with the committee, an annual [evaluations] performance audit** of [an] **all current and future** administrative law [judge, associate administrative law judge and legal advisor's conduct, performance and productivity based upon written standards established by rule] **judges by August 28, 2006.** The division[, by rule] **director, in conjunction with the committee,** shall establish the written **performance audit** standards on or before [January 1, 1999] **October 1, 2005.**

[(1) After an evaluation by the division, any administrative law judge, associate administrative law judge or legal advisor who has received an unsatisfactory evaluation in any of the three categories of conduct, performance or productivity, may appeal the evaluation to the committee.

(2) The division director shall refer an unsatisfactory evaluation of any administrative law judge, associate administrative law judge or legal advisor to the committee.

(3) When a written, signed complaint is made against an administrative law judge, associate administrative law judge or legal advisor, it shall be referred to the director of the division for a determination of merit. When the director finds the complaint has merit, it shall be referred to the committee for investigation and review.]

3. **The thirteen administrative law judges with the most years of service shall have a term of service which expires on August 28, 2008. The next thirteen administrative law judges with the most years of service in descending order shall have a term of service which expires on August 28, 2012. Administrative law judges appointed and not previously referenced in this subsection shall have a term of service which expires on August 28, 2016. Each subsequent term shall be twelve years. Administrative law judges may be eligible for reappointment. Any administrative law judge may be discharged or removed only by the governor under a performance audit by the administrative law judge review committee, hereinafter referred to as "the committee".**

4. The administrative law judge review committee **members** shall [be composed of one administrative law judge, who shall act as a peer judge on the committee and shall be domiciled in a division office other than that of the judge being reviewed, one employee representative and one employer representative, neither of whom shall] **not** have any direct or indirect employment or financial connection with a workers' compensation insurance company, claims adjustment company, health care provider nor be a practicing workers' compensation attorney. [The employee representative and employer representative] **All members of the committee** shall have a working knowledge of workers' compensation. [The employee and employer representative shall serve for four-year staggered terms and they shall be appointed by the governor. The initial employee representative shall be appointed for a two-year term. The administrative law judge who acts as a peer judge shall be appointed by the chairman of the labor and industrial relations commission and shall not serve on any two consecutive reviews conducted by the committee. Chairmanship of the committee shall rotate between the employee representative and the employer representative every other year. Staffing for the administrative review committee shall be provided, as needed, by the director of the department of labor and

industrial relations and shall be funded from the workers' compensation fund. The committee shall conduct a hearing as part of any review of a referral or appeal made according to subsection 2 of this section.

4.] **5.** The committee shall [determine] within thirty days [whether an investigation shall be conducted for a referral made pursuant to subdivision (3) of subsection 2 of this section. The committee shall make a final referral to the governor pursuant to subsection 1 of this section within two hundred seventy days of the receipt of a referral or appeal] **of completing each performance audit make a recommendation to the governor. The performance audit shall carry a recommendation of confidence or no-confidence for each administrative law judge.**

[5.] **6.** The administrative law judges appointed by the division shall only have jurisdiction to hear and determine claims upon original hearing and shall have no jurisdiction upon any review hearing, either in the way of an appeal from an original hearing or by way of reopening any prior award, except to correct a clerical error in an award or settlement if the correction is made by the administrative law judge within twenty days of the original award or settlement. The labor and industrial relations commission may remand any decision of an administrative law judge for a more complete finding of facts. The commission may also correct a clerical error in awards or settlements within thirty days of its final award. With respect to original hearings, the administrative law judges shall have such jurisdiction and powers as are vested in the division of workers' compensation under other sections of this chapter, and wherever in this chapter the word "commission", "commissioners" or "division" is used in respect to any original hearing, those terms shall mean the administrative law judges appointed under this section. When a hearing is necessary upon any claim, the division shall assign an administrative law judge to such hearing. Any administrative law judge shall have power to approve contracts of settlement, as provided by section 287.390, between the parties to any compensation claim or dispute under this chapter pending before the division of workers' compensation. Any award by an administrative law judge upon an original hearing shall have the same force and effect, shall be enforceable in the same manner as provided elsewhere in this chapter for awards by the labor and industrial relations commission, and shall be subject to review as provided by section 287.480.

[6.] **7.** Any of the administrative law judges employed pursuant to this section may be assigned on a temporary basis to the branch offices as necessary in order to ensure the proper administration of this chapter.

[7.] **8.** All administrative law judges [and legal advisors] shall be required to participate in, on a continuing basis, specific training that shall pertain to those elements of knowledge and procedure necessary for the efficient and competent performance of the administrative law judges' [and legal advisors'] required duties and responsibilities. Such training requirements shall be established by the division subject to appropriations and shall include training in medical determinations and records, mediation and legal issues pertaining to workers' compensation adjudication. Such training may be credited toward any continuing legal education requirements.

[8.] **9. (1) The director of the division, in conjunction with the administrative law judge review committee appointed by the governor, shall conduct an annual performance audit of all administrative law judges. The audit results, stating the committee's decision of confidence or no confidence of each administrative law judge shall be annually sent to the governor and the members of the general assembly no later than the first week of each legislative session. A review of no confidence following an annual audit allows the governor to withdraw the appointment of the administrative law judge. The governor shall not consider for reappointment any administrative law judge with an annual performance audit of no confidence.**

**(2) The review committee shall consist of the division director, the public member of the commission, who is an attorney, two members who represent employees and two members who represent employers. The division director and the public member of commission shall serve as co-chairpersons of the committee, and shall serve on the committee during their time of employment in their respective positions. The term of service for all other members of the review committee shall be two years, with eligibility for one additional appointment for two years by the governor. However, the first review committee shall have one employee representative and one employer representative appointed for a three-year term, with eligibility for one additional appointment of two years by the governor. The review committee members shall all serve without compensation. Necessary expenses for review committee members and all necessary support services to the review committee shall be provided by the division.**

**10.** No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo."; and

Further amend title, enacting clause and intersectional references accordingly.

On motion of Representative Smith (118), **House Amendment No. 2** was adopted.

Representative Pratt offered **House Amendment No. 3.**

*House Amendment No. 3*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Pages 6, Section 287.042, Line 1, by deleting all of said section.

On motion of Representative Pratt, **House Amendment No. 3** was adopted.

Representative Cooper (155) offered **House Amendment No. 4.**

*House Amendment No. 4*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Pages 23-24, Section 287.190, Lines 85-110, by deleting all of said lines and inserting in lieu thereof the following:

"6. (1) "Permanent partial disability" means a disability that is permanent in nature and partial in degree, and when payment therefore has been made in accordance with a settlement approved either by an administrative law judge or by the labor and industrial relations commission, a rating **established by medical finding, certified by a physician licensed under chapter 334, RSMo, and** approved by an administrative law judge [or legal advisor], or an award by administrative law judge or the commission, the percentage of disability shall be conclusively presumed to continue undiminished whenever a subsequent injury to the same member or same part of the body also results in permanent partial disability for which compensation under this chapter may be due; provided, however, the presumption shall apply only to compensable injuries which may occur after August 29, 1959.

(2) **Permanent partial disability or permanent total disability shall be demonstrated and certified by a physician. When determining disability, a physician, administrative law judge, the division, the commission, or a reviewing court shall not consider subjective complaints of pain which are not certified by a physician. Medical opinions addressing compensability and permanent impairment shall be stated within a reasonable degree of medical certainty. In determining compensability and disability, where inconsistent or conflicting medical opinions exist, objective medical findings shall prevail over subjective medical findings.**

(3) Except where otherwise addressed in this chapter the fifth edition of the "Guide to the Evaluation of Permanent Impairment", published by the American Medical Association, shall be applied in determining the level of disability under this section.

(4) **Any award of compensation shall be reduced by an amount proportional to the permanent partial disability determined to be preexisting disease or condition or attributed to the natural process of aging sufficient to cause of prolong the disability or need of treatment."**; and

Further amend said title, enacting clause and intersectional references accordingly.

Representative Page offered **House Amendment No. 1 to House Amendment No. 4.**

*House Amendment No. 1*

*to*

*House Amendment No. 4*

AMEND House Amendment No. 4 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 1, Line 29 of said amendment, by inserting after said line the following:

**"(5) Objective medical findings as used in subdivision 2 of subsection 6 of this section are those findings demonstrable on physical examination or by appropriate tests and/or diagnostic procedures."**; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Page, **House Amendment No. 1 to House Amendment No. 4** was adopted.

On motion of Representative Cooper (155), **House Amendment No. 4, as amended**, was adopted.

Representative Hunter offered **House Amendment No. 5.**

*House Amendment No. 5*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Section 287.390, Pages 26-27, Lines 1-39, by deleting all of said section and inserting in lieu thereof the following:

"287.390. 1. [Nothing in this chapter shall be construed as preventing the] Parties to claims hereunder [from entering] **may enter** into voluntary agreements in settlement thereof, but no agreement by an employee or his **or her** dependents to waive his **or her** rights under this chapter shall be valid, nor shall any agreement of settlement or compromise of any dispute or claim for compensation under this chapter be valid until approved by an administrative law judge or the commission, nor shall an administrative law judge or the commission approve any settlement which is not in accordance with the rights of the parties as given in this chapter. No such agreement shall be valid unless made after seven days from the date of the injury or death. **An administrative law judge or the commission shall approve an agreement entered into more than forty-five days after the date of injury as valid and enforceable unless the administrative law judge or the commission makes a specific finding of fact that the agreement is manifestly unjust. Parties to claims under this chapter may enter into voluntary agreements in settlement of those claims and such agreements shall be approved, valid, and not subject to the requirements under subsection 6 of section 287.190.**

2. A compromise settlement approved by an administrative law judge or the commission during the employee's lifetime shall extinguish and bar all claims for compensation for the employee's death if the settlement compromises a dispute on any question or issue other than the extent of disability or the rate of compensation.

3. Notwithstanding the provisions of section 287.190, an employee shall be afforded the option of receiving a compromise settlement as a one-time lump sum payment. A compromise settlement approved by an administrative law judge or the commission shall indicate the manner of payment chosen by the employee.

4. A minor dependent, by parent or conservator, may compromise disputes and may enter into a compromise settlement agreement, and upon approval by an administrative law judge or the commission the settlement agreement shall have the same force and effect as though the minor had been an adult. The payment of compensation by the employer in accordance with the settlement agreement shall discharge the employer from all further obligation.

**5. In any claim under this chapter where an offer of settlement is made in writing and by the employer within one hundred fifty days of the date of injury, an employee is entitled to one hundred percent of the amount offered, provided such employee is not represented by counsel at the time the offer is tendered. Where such offer of settlement is not accepted and where additional proceedings occur with regard to the employee's claim, the employee is entitled to one hundred percent of the amount initially offered plus seventy-five percent of any amount in dispute. Legal counsel representing the employee shall receive reasonable fees plus actual expenses for services rendered, not to exceed twenty-five percent of the amount in dispute.**

**6. As used in this chapter, "amount in dispute" means the dollar amount in excess of the dollar amount offered by, agreed to, or paid by the employer pursuant to subsection 5 of this section. An offer of settlement shall not be construed as an admission of liability."; and**

Further amend title, enacting clause and intersectional references accordingly.

On motion of Representative Hunter, **House Amendment No. 5** was adopted.

Representative Burnett offered **House Amendment No. 6.**



Representative Yates raised a point of order that **House Amendment No. 6** amends previously amended material.

Representative Cooper (120) requested a parliamentary ruling.

The Parliamentary Committee ruled the point of order well taken.

Representative Meadows offered **House Amendment No. 7**.

*House Amendment No. 7*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 26, Section 287.253, Line 4, by inserting after all of said line the following:

"287.290. No part of the cost of such insurance shall be assessed against, collected from or paid by any employee, **or by any independent contractor or subcontractor who is an owner and operator of a motor vehicle if the independent contractor or subcontractor is required to purchase such insurance by the motor carrier to whom he or she is leased or under contract, and the motor carrier derives a pecuniary benefit from the sale or administration of such insurance or from the award of benefits under such insurance. Nothing in this section shall be construed to deny a motor carrier from requiring an independent contractor to provide proof of worker's compensation coverage.**"; and

Further amend said title, enacting clause and intersectional references accordingly.

Representative Meadows moved that **House Amendment No. 7** be adopted.

Which motion was defeated by the following vote:

AYES: 071

Aull	Baker 123	Baker 25	Barnitz	Bland
Bowman	Bringer	Brooks	Brown 50	Burnett
Chappelle-Nadal	Casey	Corcoran	Curls	Darrough
Daus	Deeken	Donnelly	Dougherty	El-Amin
Fraser	George	Harris 110	Harris 23	Haywood
Henke	Hoskins	Hubbard	Hughes	Johnson 47
Johnson 61	Johnson 90	Jolly	Kelly	Kingery
Kratky	Kraus	Kuessner	LeVota	Liese
Low 39	Lowe 44	May	Meadows	Meiners
Oxford	Page	Pratt	Robinson	Roorda
Rucker	Salva	Schoemehl	Selby	Shoemyer
Skaggs	Spreng	Storch	Swinger	Vogt
Wagner	Walsh	Walton	Whorton	Wildberger
Witte	Wright-Jones	Yaeger	Yates	Young
Zweifel				

NOES: 086

Avery	Bearden	Bivins	Black	Brown 30
Bruns	Byrd	Chinn	Cooper 120	Cooper 155
Cooper 158	Cunningham 145	Cunningham 86	Davis	Day
Dempsey	Denison	Dethrow	Dixon	Emery
Ervin	Faith	Fares	Fisher	Flook
Franz	Goodman	Guest	Hobbs	Hunter

Icet	Jackson	Jones	Lager	Lembke
Lipke	Loehner	Marsh	McGhee	Moore
Munzlinger	Muschany	Myers	Nance	Nieves
Nolte	Parker	Parson	Pearce	Phillips
Pollock	Portwood	Quinn	Rector	Richard
Roark	Robb	Ruestman	Rupp	Sander
Sater	Schaaf	Schad	Schlottach	Schneider
Self	Smith 118	Smith 14	Stefanick	Stevenson
St. Onge	Sutherland	Threlkeld	Tilley	Viebrock
Villa	Wallace	Wasson	Wells	Weter
Wilson 119	Wilson 130	Wood	Wright 137	Wright 159
Mr Speaker				

PRESENT: 000

ABSENT WITH LEAVE: 005

Bean	Behnen	Boykins	Dusenberg	Lampe
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VACANCIES: 001

Representative Jolly offered **House Amendment No. 8.**

*House Amendment No. 8*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 4, Section 287.020, Line 70, by inserting after all of said line the following:

**"This subsection shall not apply when the employer is a law enforcement agency that has a policy allowing its law enforcement officers to take agency vehicles to their homes but which requires officers using those vehicles to respond to accidents or calls and engage in pursuits while in those vehicles and in route to their homes from the place where they are employed as a law enforcement officer, or in route from their homes to the place where they are employed as a law enforcement officer.";** and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

**HCS SS SCS SBs 1 & 130, as amended, with House Amendment No. 8, pending,** was laid over.

Speaker Jetton resumed the Chair

**SIGNING OF SENATE BILL**

Representative Harris (23) and Representative Baker (25) offered an objection to **SS SCS SB 98.**

**CONSTITUTIONAL OBJECTION**

Comes now, the undersigned duly elected members of the Missouri House of Representatives to present the following objection, pursuant to Article III, Section 30, of the Missouri Constitution, to Senate Substitute for Senate Committee Substitute for Senate Bill No. 98. This legislation should not be signed because it is constitutionally infirm, and this objection shall be so noted in the Journal and annexed to the bill for the governor's consideration.

We believe that Senate Substitute for Senate Committee Substitute for Senate Bill No. 98 is constitutionally defective in that the bill:

- (1) Contains more than one subject, in violation of Article III, Section 23 of the Missouri Constitution; and
- (2) Conflicts with Article IX, Sections 9(a) and 9(b) of the Missouri Constitution, which state that the state of Missouri shall have only one "state university".

## 1. Single Subject

Article III, Section 23 of the Missouri Constitution states:

No bill shall contain more than one subject which shall be clearly expressed in its title, except bills enacted under the third exception in section 37 of this article and general appropriation bills, which may embrace the various subjects and accounts for which moneys are appropriated.

Senate Substitute for Senate Committee Substitute for Senate Bill No. 98, in Section 1 of the bill, includes a wide variety of different subjects, including but not limited to, the re-naming of different institutions with different educational missions, histories, and purposes.

In its analysis of Article III, Section 23 of the Missouri Constitution, the Missouri Supreme Court has held:

The words "one subject" must be broadly read, but not so broadly that the phrase becomes meaningless. To that end, this Court's test for determining whether a bill violates the single subject requirement of Article III, Section 23, has remained virtually the same since 1869. So long as "the matter is germane, connected and congruous," the law does not violate the single subject rule. *State v. Mathews*, 44 Mo. 523, 527 (1869). Cf. *Westin Crown Plaza Hotel*, 664 S.W.2d at 6. (The test to determine if "a bill contains more than one subject is whether all provisions of the bill fairly relate to the same subject, have a natural connection therewith or are incidents or means to accomplish its purpose.") From these consistent precedents we conclude that a "subject" within the meaning of Article III, Section 23, includes all matters that fall within or reasonably relate to the general *core purpose* of the proposed legislation. (Emphasis added.)

The core purpose of the proposed legislation is to change the name of Southwest Missouri State University to Missouri State University. However, portions of the bill relate to completely different institutions with different purposes and different missions. Therefore, the bill contains more than one subject, and is in violation of Article III, Section 23 of the Missouri Constitution.

## 2. "The" State University

Senate Substitute for Senate Committee Substitute for Senate Bill No. 98 amends sections 174.020, 174.450 and 176.010 changing Southwest Missouri State University into "Missouri State University." However, the Missouri Constitution, in Article IX, Section 9(a), states:

The government of *the state university* shall be vested in a board of curators consisting of nine members appointed by the governor, by and with the advice and consent of the senate. (Emphasis added.)

Further, the Missouri Constitution, in Article IX, Section 9(b), states:

The general assembly shall adequately maintain *the state university* and such other educational institutions as it may deem necessary. (Emphasis added.)

The common and ordinary usage and meaning of the word "the" before a noun indicates the noun is a single, specific subject. As defined in *Webster's Dictionary*, the word "the" is an article "used as a determiner before nouns and noun phrases designating particular persons or things." The use of the word "the" in Sections 9(a) and 9(b) of Article IX demonstrates the clear intent of the General Assembly to designate one educational institution as "the state university." A statute naming an additional educational institution as a "state university" would be in direct conflict with Article IX, Sections 9(a) and 9(b), and, thus, would be null and void.

For the above stated reason and other reasons not stated here, we conclude that the Senate Substitute for Senate Committee Substitute for Senate Bill No. 98 as Truly Agreed and Finally Passed by the 93<sup>rd</sup> General Assembly is unconstitutional and should not be signed.

Respectfully submitted:

/s/ Jeff Harris  
District 23

/s/ Judy Baker  
District 25

All other business of the House was suspended while **SS SCS SB 98** was read at length and was signed by the Speaker to the end that the same may become law.

Representative Cooper (120) resumed the Chair.

On motion of Representative Dempsey, the House recessed until 2:00 p.m.

### **AFTERNOON SESSION**

The hour of recess having expired, the House was called to order by Speaker Pro Tem Bearden.

The Speaker appointed the following to act as an Honorary Page for the Day, to serve without compensation: Brandon Louis Ross.

### **HOUSE RESOLUTION**

Representative Storch offered House Resolution No. 838.

### **HOUSE CONCURRENT RESOLUTION**

Representatives Schlottach and Bearden, et al., offered House Concurrent Resolution No. 25.

### **THIRD READING OF SENATE BILL**

**HCS SS SCS SBs 1 & 130, as amended, with House Amendment No. 8, pending**, relating to workers' compensation, was again taken up by Representative Hunter.

On motion of Representative Jolly, **House Amendment No. 8** was adopted by the following vote:

AYES: 117

Aull	Avery	Baker 123	Baker 25	Bearden
Bivins	Black	Bland	Bowman	Bringer
Brooks	Brown 30	Brown 50	Bruns	Burnett
Chappelle-Nadal	Casey	Chinn	Cooper 120	Cooper 155
Cooper 158	Corcoran	Cunningham 86	Curls	Darrough

Daus	Davis	Day	Deeken	Dempsey
Donnelly	Dougherty	Ervin	Faith	Fares
Fisher	Flook	Fraser	George	Goodman
Harris 110	Harris 23	Henke	Hoskins	Hubbard
Hughes	Hunter	Johnson 61	Johnson 90	Jolly
Jones	Kelly	Kingery	Kratky	Kraus
Kuessner	Lager	Lampe	LeVota	Liese
Lipke	Low 39	Lowe 44	Marsh	McGhee
Meadows	Meiners	Muschany	Nieves	Oxford
Page	Parson	Portwood	Pratt	Quinn
Richard	Robinson	Roorda	Ruestman	Rupp
Salva	Sander	Schaaf	Schad	Schlottach
Schoemehl	Selby	Self	Shoemyer	Smith 14
Spreng	Stefanick	Stevenson	St. Onge	Storch
Sutherland	Swinger	Threlkeld	Villa	Vogt
Wagner	Walsh	Walton	Wasson	Wells
Weter	Whorton	Wildberger	Wilson 130	Witte
Wright-Jones	Wright 159	Yaeger	Yates	Young
Zweifel	Mr Speaker			

NOES: 030

Cunningham 145	Denison	Dethrow	Dixon	Emery
Franz	Guest	Hobbs	Ice	Jackson
Johnson 47	Lembke	Loehner	May	Moore
Munzlinger	Myers	Nance	Nolte	Pearce
Phillips	Pollock	Roark	Robb	Sater
Smith 118	Tilley	Wallace	Wilson 119	Wood

PRESENT: 001

El-Amin

ABSENT WITH LEAVE: 014

Barnitz	Bean	Behnen	Boykins	Byrd
Dusenberg	Haywood	Parker	Rector	Rucker
Schneider	Skaggs	Viebrock	Wright 137	

VACANCIES: 001

Representative Cooper (120) resumed the Chair.

Representative Stevenson offered **House Amendment No. 9.**

*House Amendment No. 9*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 6, Section 287.042, Line 2, by inserting after all of said line the following:

**"287.043. In applying the provisions of subsection 1 of section 287.020 and subsection 4 of section 287.040, it is the intent of the legislature to reject and abrogate earlier case law interpretations on the meaning of or definition of "owner", as extended in the following cases: *Owner Operator Independent Drivers Ass'n, Inc. v. New Prime, Inc.*, 133 S.W.3d 162 (Mo.App. S.D.,2004); *Nunn v. C.C. Midwest*, 151 S.W.3d 388 (Mo.App. W.D.,2004)."; and**

Further amend said title, enacting clause and intersectional references accordingly.

On motion of Representative Stevenson, **House Amendment No. 9** was adopted.

Representative Parson offered **House Amendment No. 10**.

*House Amendment No. 10*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 9, Section 287.120, Line 53, by inserting after "7." the following:

**"An employee's refusal to take a test for alcohol or a nonprescribed controlled substance, as defined by section 195.010, RSMo, at the request of the employer shall result in forfeiture of benefits under this chapter if the employer had sufficient cause to suspect use of alcohol or a nonprescribed controlled substance by the claimant or if the employer's policy clearly authorizes post-injury testing.**

**8."; and**

Further amend said bill, Page 9, Section 287.120, Line 66, by deleting "8." and inserting in lieu thereof:

**"[8.] 9."; and**

Further amend said bill, Page 10, Section 287.120, Line 70, by deleting "9." and inserting in lieu thereof:

**"[9.] 10."; and**

Further amend said bill, Page 10, Section 287.120, Line 73, by deleting "10." and inserting in lieu thereof:

**"[10.] 11."; and**

Further amend said bill, Page 10, Section 287.120, Line 75, by deleting "11." and inserting in lieu thereof:

**"12."; and**

Further amend said title, enacting clause and intersectional references accordingly.

On motion of Representative Parson, **House Amendment No. 10** was adopted.

Representative Flook offered **House Amendment No. 11**.

*House Amendment No. 11*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 10, Section 287.120, Lines 75 thru 84, by deleting all of said lines and inserting in lieu thereof the following:

**"11. An employee shall forfeit compensation for an injury or occupational disease under the provisions of this chapter, including compensation from the second injury fund created under section 287.220, and this state shall have no jurisdiction over any workers' compensation claim of an employee, when the employee:**

**(1) Files a claim or application for a hearing in another state or commonwealth of competent jurisdiction requesting workers' compensation benefits for the injury or occupational disease; or**

**(2) Has affirmatively requested and accepted benefits for the injury from another state or commonwealth of competent jurisdiction."; and**

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Speaker Jetton resumed the Chair.

On motion of Representative Flook, **House Amendment No. 11** was adopted.

Speaker Pro Tem Bearden resumed the Chair.

Representative Cooper (120) offered **House Amendment No. 12**.

*House Amendment No. 12*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 39, Section 287.865, Line 46, by deleting said line and inserting in lieu thereof the following:

**“member filing bankruptcy, liquidation or dissolution, shall notify in writing any employee of the self-insured”**; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Cooper (120), **House Amendment No. 12** was adopted.

Representative Portwood offered **House Amendment No. 13**.

*House Amendment No. 13*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Section 287.972, Page 45, Line 36, by inserting after all of said line the following:

**“Section 1. No health care provider who in good faith reports a violation of the provisions of section 287.128 or section 287.129 is civilly liable for making such report, nor, if such person is an officer of employee or health care provider of any health maintenance organization or insurance company, may such person be demoted, fired, suspended, or otherwise disciplined or sanctioned for making such report.”**; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Wright (137) offered **House Amendment No. 1 to House Amendment No. 13**.

*House Amendment No. 1*

*to*

*House Amendment No. 13*

AMEND House Amendment No. 13 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130,

**“Any chiropractic physician licensed under chapter 331, RSMo, shall not be excluded from rendering an impairment rating provided the chiropractic physician has completed certification in impairment ratings based upon the AMA’s Guide to evaluation of Permanent Impairment”**.

On motion of Representative Wright (137), **House Amendment No. 1 to House Amendment No. 13** was adopted.

Representative Portwood moved that **House Amendment No. 13, as amended**, be adopted.

Which motion was defeated.

Representative Darrough offered **House Amendment No. 14**.

Representative Pratt raised a point of order that **House Amendment No. 14** amends previously amended material.

The Chair ruled the point of order well taken.

Representative Harris (23) offered **House Amendment No. 15**.

*House Amendment No. 15*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 18, Section 287.140, Lines 149 to 153, by deleting all of said lines; and

Further amend said title, enacting clause and intersectional references accordingly.

Representative Harris (23) moved that **House Amendment No. 15** be adopted.

Which motion was defeated.

Representative Bowman offered **House Amendment No. 16**.

*House Amendment No. 16*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Pages 6-7, Section 287.067, Lines 19-24, by deleting all of said lines following the word “compensable” and inserting a period.

Representative Bowman moved that **House Amendment No. 16** be adopted.

Which motion was defeated by the following vote:

AYES: 065

Aull	Baker 25	Barnitz	Bland	Bowman
Boykins	Bringer	Brooks	Brown 50	Burnett
Chappelle-Nadal	Casey	Corcoran	Curls	Darrough
Daus	Donnelly	Dougherty	El-Amin	Fraser
George	Harris 110	Harris 23	Haywood	Henke
Hoskins	Hubbard	Hughes	Johnson 61	Johnson 90
Jolly	Kratky	Kuessner	Lampe	LeVota
Liese	Low 39	Lowe 44	Meadows	Meiners
Oxford	Page	Robinson	Roorda	Rucker
Salva	Schoemehl	Selby	Shoemyer	Skaggs
Spreng	Stevenson	Storch	Swinger	Villa
Vogt	Walsh	Walton	Whorton	Wildberger
Witte	Wright-Jones	Yaeger	Young	Zweifel



NOES: 091

Avery	Baker 123	Bearden	Bivins	Black
Brown 30	Bruns	Chinn	Cooper 120	Cooper 155
Cooper 158	Cunningham 145	Cunningham 86	Davis	Day
Deeken	Dempsey	Denison	Dethrow	Dixon
Emery	Ervin	Faith	Fares	Fisher
Franz	Goodman	Guest	Hobbs	Hunter
Iceet	Jackson	Johnson 47	Jones	Kelly
Kingery	Kraus	Lager	Lembke	Lipke
Loehner	Marsh	May	McGhee	Moore
Munzlinger	Muschany	Myers	Nance	Nieves
Nolte	Parker	Parson	Pearce	Phillips
Pollock	Portwood	Pratt	Quinn	Rector
Richard	Roark	Robb	Ruestman	Rupp
Sander	Sater	Schaaf	Schad	Schlottach
Schneider	Self	Smith 118	Smith 14	Stefanick
St. Onge	Sutherland	Threlkeld	Tilley	Viebrock
Wallace	Wasson	Wells	Weter	Wilson 119
Wilson 130	Wood	Wright 137	Wright 159	Yates
Mr Speaker				

PRESENT: 001

Byrd

ABSENT WITH LEAVE: 005

Bean	Behnen	Dusenberg	Flook	Wagner
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VACANCIES: 001

Representative Walsh offered **House Amendment No. 17**.

*House Amendment No. 17*

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 1 & 130, Page 28, Section 287.420, Lines 9 and 10, by deleting the words “time, place, and”.

Representative Walsh moved that **House Amendment No. 17** be adopted.

Which motion was defeated by the following vote:

AYES: 069

Aull	Baker 25	Barnitz	Bland	Bowman
Bringer	Brooks	Burnett	Byrd	Chappelle-Nadal
Casey	Corcoran	Curls	Darrough	Daus
Donnelly	Dougherty	El-Amin	Flook	Fraser
George	Harris 110	Harris 23	Haywood	Henke
Hoskins	Hubbard	Hughes	Johnson 61	Johnson 90
Jolly	Kratky	Kuessner	Lampe	LeVota
Liese	Lipke	Low 39	Lowe 44	Meadows
Meiners	Nance	Oxford	Page	Robinson
Roorda	Rucker	Salva	Sater	Schoemehl
Selby	Shoemyer	Skaggs	Smith 14	Spreng

Stevenson	Storch	Swinger	Villa	Vogt
Walsh	Walton	Whorton	Wildberger	Witte
Wright-Jones	Yaeger	Young	Zweifel	

NOES: 087

Avery	Baker 123	Bearden	Bivins	Black
Brown 30	Bruns	Chinn	Cooper 120	Cooper 155
Cooper 158	Cunningham 145	Cunningham 86	Davis	Day
Deeken	Dempsey	Denison	Dethrow	Dixon
Emery	Ervin	Faith	Fares	Fisher
Franz	Goodman	Guest	Hobbs	Hunter
Ice	Jackson	Johnson 47	Jones	Kelly
Kingery	Kraus	Lager	Lembke	Loehner
Marsh	May	McGhee	Moore	Munzlinger
Muschany	Myers	Nieves	Nolte	Parker
Parson	Pearce	Phillips	Pollock	Portwood
Pratt	Quinn	Rector	Richard	Roark
Robb	Ruestman	Rupp	Sander	Schaaf
Schad	Schlottach	Schneider	Self	Smith 118
Stefanick	St. Onge	Sutherland	Threlkeld	Tilley
Viebrock	Wallace	Wasson	Wells	Weter
Wilson 119	Wilson 130	Wood	Wright 137	Wright 159
Yates	Mr Speaker			

PRESENT: 000

ABSENT WITH LEAVE: 006

Bean	Behnen	Boykins	Brown 50	Dusenberg
Wagner				

VACANCIES: 001

Representative Cooper (120) resumed the Chair.

Speaker Pro Tem Bearden resumed the Chair.

On motion of Representative Hunter, **HCS SS SCS SBs 1 & 130, as amended**, was adopted.

On motion of Representative Hunter, **HCS SS SCS SBs 1 & 130, as amended**, was read the third time and passed by the following vote:

AYES: 090

Avery	Baker 123	Bearden	Bivins	Brown 30
Bruns	Chinn	Cooper 120	Cooper 155	Cooper 158
Cunningham 145	Cunningham 86	Davis	Day	Deeken
Dempsey	Denison	Dethrow	Dixon	Emery
Ervin	Faith	Fares	Fisher	Franz
Goodman	Guest	Hobbs	Hunter	Ice
Jackson	Johnson 47	Jones	Kelly	Kingery
Kraus	Lager	Lembke	Lipke	Loehner
Marsh	May	McGhee	Moore	Munzlinger
Muschany	Myers	Nance	Nieves	Nolte

Parker	Parson	Pearce	Phillips	Pollock
Portwood	Pratt	Quinn	Rector	Richard
Roark	Robb	Ruestman	Rupp	Sander
Sater	Schaaf	Schad	Schlottach	Schneider
Self	Smith 118	Smith 14	Stefanick	St. Onge
Sutherland	Threlkeld	Tilley	Viebrock	Wallace
Wasson	Wells	Weter	Wilson 119	Wilson 130
Wood	Wright 137	Wright 159	Yates	Mr Speaker

NOES: 066

Aull	Baker 25	Barnitz	Black	Bland
Bowman	Bringer	Brown 50	Burnett	Byrd
Chappelle-Nadal	Casey	Corcoran	Curls	Darrough
Daus	Donnelly	Dougherty	El-Amin	Flook
Fraser	George	Harris 110	Harris 23	Haywood
Henke	Hoskins	Hubbard	Hughes	Johnson 61
Johnson 90	Jolly	Kratky	Kuessner	Lampe
LeVota	Liese	Low 39	Lowe 44	Meadows
Meiners	Oxford	Page	Robinson	Roorda
Rucker	Salva	Schoemehl	Selby	Shoemyer
Skaggs	Spreng	Stevenson	Storch	Swinger
Villa	Vogt	Walsh	Walton	Whorton
Wildberger	Witte	Wright-Jones	Yaeger	Young
Zweifel				

PRESENT: 000

ABSENT WITH LEAVE: 006

Bean	Behnen	Boykins	Brooks	Dusenberg
Wagner				

VACANCIES: 001

Speaker Pro Tem Bearden declared the bill passed.

## COMMITTEE REPORTS

**Committee on Elections**, Chairman May reporting:

Mr. Speaker: Your Committee on Elections, to which was referred **HB 524**, begs leave to report it has examined the same and recommends that it **Do Pass by Consent**, and pursuant to Rule 25(26)(f) be referred to the Committee on Rules.

**Committee on Job Creation and Economic Development**, Chairman Richard reporting:

Mr. Speaker: Your Committee on Job Creation and Economic Development, to which was referred **HB 431**, begs leave to report it has examined the same and recommends that it **Do Pass by Consent**, and pursuant to Rule 25(26)(f) be referred to the Committee on Rules.

**Committee on Local Government**, Chairman Johnson (47) reporting:

Mr. Speaker: Your Committee on Local Government, to which was referred **HB 58**, begs leave to report it has examined the same and recommends that the **House Committee Substitute Do Pass**, and pursuant to Rule 25(26)(f) be referred to the Committee on Rules.

**Committee on Transportation**, Chairman St. Onge reporting:

Mr. Speaker: Your Committee on Transportation, to which was referred **HB 243**, begs leave to report it has examined the same and recommends that it **Do Pass by Consent**, and pursuant to Rule 25(26)(f) be referred to the Committee on Rules.

Mr. Speaker: Your Committee on Transportation, to which was referred **HB 423**, begs leave to report it has examined the same and recommends that it **Do Pass by Consent**, and pursuant to Rule 25(26)(f) be referred to the Committee on Rules.

**Committee on Veterans**, Chairman Jackson reporting:

Mr. Speaker: Your Committee on Veterans, to which was referred **HB 437**, begs leave to report it has examined the same and recommends that the **House Committee Substitute Do Pass**, and pursuant to Rule 25(26)(f) be referred to the Committee on Rules.

**Committee on Rules**, Chairman Cooper (120) reporting:

Mr. Speaker: Your Committee on Rules, to which was referred **HR 530**, begs leave to report it has examined the same and recommends that it **Do Pass, with no time limit for debate**.

#### HOUSE RESOLUTION NO. 530

WHEREAS, the members of the Missouri House of Representatives enjoy a long, proud tradition of meeting their responsibilities to the citizens of this state while upholding the virtues represented by the "Glory of Missouri": Knowledge, Liberty, Equality, Law, Justice, Fraternity, Education, Progress, Honor, Truth, Virtue, Temperance, Enterprise, and Charity; and

WHEREAS, these virtues are engraved in the House Chamber of the State Capitol with the inscription: "All the foregoing human qualities bind into one theme, the Glory of Missouri because no people attain these virtues unless they are great"; and

WHEREAS, the "Glory of Missouri" Award was created to encourage the values held by the early leaders of Missouri and to recognize those standards as exemplified in our schools and communities by this state's young people, the future of Missouri:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri House of Representatives, Ninety-third General Assembly, hereby grant permission for the House Chamber and Third Floor Rotunda area to be used for the purpose of presenting the "Glory of Missouri" Award to the young citizens of this great state on Monday, April 11, 2005, from 12:15 p.m. to 1:30 p.m.

Mr. Speaker: Your Committee on Rules, to which was referred **HR 717**, begs leave to report it has examined the same and recommends that it **Do Pass, with no time limit for debate**.

HOUSE RESOLUTION NO. 717

WHEREAS, the General Assembly of the State of Missouri has a long tradition of rendering assistance to worthwhile youth activities, especially those related to governmental or citizenship projects; and

WHEREAS, the Jefferson City Downtown Rotary Club has sought to instill values of high integrity within our youth and to provide an opportunity for Missouri students to experience state government firsthand; and

WHEREAS, the General Assembly has maintained a policy of granting such organizations permission to use the House Chamber for beneficial purposes; and

WHEREAS, this year, the Jefferson City Downtown Rotary Club is sponsoring its annual Student Government Day, an event which will be highlighted by a meeting in the House Chamber of our State Capitol where students in attendance will be addressed by a representative of each of the three branches of government:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri House of Representatives, Ninety-third General Assembly, hereby grant the Jefferson City Downtown Rotary Club permission to use the House Chamber for the purpose of conducting its Student Government Day on Monday, March 21, 2005, from 8:00 a.m. until 11:30 a.m.

Mr. Speaker: Your Committee on Rules, to which was referred **HR 757**, begs leave to report it has examined the same and recommends that it **Do Pass, with no time limit for debate**.

HOUSE RESOLUTION NO. 757

WHEREAS, the Missouri House of Representatives recognizes the importance of empowering citizens to actively participate in the democratic process; and

WHEREAS, the House of Representatives has a long tradition of rendering assistance to those organizations that sponsor projects in the interest of good citizenship; and

WHEREAS, the Missouri Catholic Conference has as its purpose to promote the material and spiritual well being of all the people of the State of Missouri and to participate in the democratic processes of government:

NOW, THEREFORE, BE IT RESOLVED, the members of the Missouri House of Representatives, Ninety-second General Assembly, hereby grant the Missouri Catholic Conference permission to use the House Chamber and the House Hearing Rooms from 7:00 a.m. to 7:00 p.m. on Saturday, October 1, 2005, for the purpose of holding a citizens assembly and workshops.

Mr. Speaker: Your Committee on Rules, to which was referred **HCR 4**, begs leave to report it has examined the same and recommends that it **Do Pass, with no time limit for debate**.

HOUSE CONCURRENT RESOLUTION NO. 4

WHEREAS, the current government of Vietnam is a nondemocratic, one-party system of government without rule of law that arbitrarily infringes upon the basic human and civil liberties of its citizens; and

WHEREAS, Vietnamese-Americans were forced to flee Vietnam in fear of the government of Vietnam's campaign of retribution and persecution after the fall of Saigon in 1975; and

WHEREAS, the State of Missouri is home to 20,000 Vietnamese-Americans and residents of Vietnamese descent who have made substantial contributions to the cultural, religious, business, and commerce of the State of Missouri; and

WHEREAS, the vast majority of Vietnamese-Americans embrace the yellow with three red stripes heritage and freedom flag as the official symbol of the Vietnamese-American community; and

WHEREAS, dating back to 1948, the yellow flag with three red stripes has a long history in Vietnam and is a broader symbol of resilience, freedom, and democracy of and for Vietnamese-Americans and free Vietnamese around the world; and

WHEREAS, Vietnamese-Americans have shown their desire that the yellow flag with three red stripes be recognized as the official flag of the Vietnamese-American community:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-third General Assembly, First Regular Session, the Senate concurring therein, hereby urge the State of Missouri to formally recognize the yellow with three red stripes heritage and freedom flag as the official flag of the Vietnamese-American community in this state, and permit this flag to be displayed on any state-owned property, at any state-controlled or sponsored Vietnamese-American event, or at any public function organized by the Vietnamese-American community, subject to the permit requirements of the event's locality; and

BE IT FURTHER RESOLVED that the Missouri House of Representatives encourages county officials and city legislators in the State of Missouri to pass resolutions recognizing the yellow with three red stripes heritage and freedom flag as the official flag of the Vietnamese-American community.

Mr. Speaker: Your Committee on Rules, to which was referred **HCS HB 47**, begs leave to report it has examined the same and recommends that it **Do Pass by Consent, with no time limit for debate**.

Mr. Speaker: Your Committee on Rules, to which was referred **HB 100**, begs leave to report it has examined the same and recommends that it **Do Pass, with a time limit of 3 hours for debate on Perfection**.

Mr. Speaker: Your Committee on Rules, to which was referred **HCS HBs 163, 213 & 216**, begs leave to report it has examined the same and recommends that it **Do Pass by Consent, with no time limit for debate**.

Mr. Speaker: Your Committee on Rules, to which was referred **HB 174**, begs leave to report it has examined the same and recommends that it **Do Pass, with no time limit for debate**.

Mr. Speaker: Your Committee on Rules, to which was referred **HB 215**, begs leave to report it has examined the same and recommends that it **Do Pass, with no time limit for debate**.

Mr. Speaker: Your Committee on Rules, to which was referred **HB 592**, begs leave to report it has examined the same and recommends that it **Do Pass by Consent, with no time limit for debate**.

## INTRODUCTION OF HOUSE BILLS

The following House Bills were read the first time and copies ordered printed:

**HB 685**, introduced by Representative Franz, to authorize the board of governors of Southwest Missouri State University to convey property in Howell County.

**HB 686**, introduced by Representative Wood, relating to county government.

**HB 687**, introduced by Representatives Rucker, Robinson, Henke, Swinger, Wagner, Dougherty, Whorton, Wallace, Aull, Wright (137), Harris (110), Shoemyer, Richard, Schad, Robb, Weter, Nance, Sater, Wells, Day, Dempsey, Bringer, Bland, Salva, Roorda, Kuessner, Parson, Schaaf, Witte, Selby, Wildberger, Brown (50), Barnitz, Casey and Lampe, relating to ethanol blend fuel.

**HB 688**, introduced by Representatives Byrd, Burnett, Pratt, Stevenson, Johnson (61), Yates, Johnson (90), Goodman, Witte, Vogt, Bringer, Flook and Lipke, relating to judicial procedures.

**HB 689**, introduced by Representatives Zweifel and Spreng, relating to removal of nuisances.

**HB 690**, introduced by Representative St. Onge, relating to salvage motor vehicles.

**HB 691**, introduced by Representative Cooper (120), relating to gambling devices.

**HB 692**, introduced by Representative Cooper (120), relating to definitions for sales tax.

**HB 693**, introduced by Representative Yates, relating to risk management for public entities.

**HB 694**, introduced by Representatives Stevenson, Myers, Moore and Portwood, relating to child support.

**HB 695**, introduced by Representatives Stevenson, Myers and Moore, relating to the interstate compact for juveniles.

**HB 696**, introduced by Representatives Stevenson, Wilson (130), Richard, Ruestman and Hunter, relating to intermediate care facilities for the mentally retarded.

**HB 697**, introduced by Representatives Lembke, Portwood, St. Onge, Jackson, Dempsey, Nieves, Bivins, Smith (14), Cunningham (86), Bearden, Threlkeld, Schneider, Icet, Davis, Parker, Yaeger, Sutherland, Vogt, Corcoran, Zweifel, Hubbard, Liese, Meadows and Avery, relating to motor vehicles emission testing.

**HB 698**, introduced by Representatives Avery, Jackson, Smith (14), Nieves, Portwood, Walton, Kingery, Hobbs, Brown (30), Lembke, Pratt, Yates, Fares, Threlkeld, Franz, Sater, Sutherland, Bruns, Schaaf, Munzlinger, Wright (159), Roark, St. Onge, Tilley, Davis, Marsh, Dixon, Bivins, Stevenson, May, Fisher, Schlottach, Weter, Schneider, Flook, Bearden, Smith (118), Baker (123), Icet, Wood, Pearce, Schoemehl, Sander, Skaggs, Storch, Burnett, Young, Liese, Henke, Dougherty, Robinson and Hoskins, relating to fees for hunting and fishing licenses and permits.

**HB 699**, introduced by Representatives Avery, Jackson, Smith (14), Lembke, Nieves, Portwood, Walton, Kingery, Pratt, Yates, Kraus, Threlkeld, Hobbs, Franz, Sater, Sutherland, Bruns, Schaaf, Munzlinger, Wright (159), Roark, St. Onge, Tilley, Dixon, Marsh, Bivins, Stevenson, Flook, May, Rector, Fisher, Schlottach, Weter, Schneider, Bearden, Smith (118), Wood, Baker (123), Icet, Pearce, Schoemehl, Sander, Skaggs, Storch, Burnett, Walsh, Young, Liese, Henke, Dougherty, Robinson, Hoskins and El-Amin, relating to an income tax exemption for military service personnel.

**HB 700**, introduced by Representatives Moore, Kelly, Tilley, Yates, Cooper (120), Fisher, Wildberger, Darrough, Pollock, Aull, Harris (110), Baker (25), Jolly, Brown (50), Deeken, Bruns, Richard, Kingery, Nieves, Pearce, Lipke, Wasson, Nolte, Selby, Barnitz, Meadows, St. Onge, Hobbs, Portwood, Self, Kraus, Muschany, Cunningham (86), Schlottach, Weter, Robb, Ruestman, Stevenson, Wilson (119), Sander, Wells, Munzlinger, Sater, Parson, Jones, Schad, Nance, Lembke, Goodman and Wood, relating to the endangerment of individuals at correctional facilities.

## **COMMITTEE ASSIGNMENT**

### **SPECIAL COMMITTEE ON GENERAL LAWS**

#### **Brad Roark - Chair**

Jack Goodman - Vice-Chair

Steve Hunter

Allen Icet

Brian Yates

Jim Whorton

John Bowman

Bruce Darrough

## **COMMITTEE CHANGES**

Representative Bean is no longer a member of the Corrections and Public Institutions Committee and the Joint Committee on Gaming and Wagering.

Representative Avery has been appointed a member of the Corrections and Public Institutions Committee and the Joint Committee on Gaming and Wagering.

## **MESSAGE FROM THE SENATE**

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and passed **SCR 2**.

### **SENATE CONCURRENT RESOLUTION NO. 2**

WHEREAS, faith-based and community organizations are currently providing quality social services and making a positive difference in the communities they serve; and

WHEREAS, faith-based and community organizations are serving their communities in areas such as the prevention and treatment of juvenile delinquency, child care services, support services for the elderly, the prevention of crime, the intervention in and prevention of domestic violence, and a number of other social service areas; and

WHEREAS, some of these faith-based and community organizations are currently receiving funds from federal government, or through a state, city, or local government that itself receives federal funds, to carry out their missions; and

WHEREAS, because of the quality services provided by these organizations, it is important for the state and local governments to utilize their services by working in partnership with faith-based and community organizations; and



WHEREAS, faith-based and community organizations that currently work in partnership with local governments or judicial circuits are doing so within the framework of the Constitutional church-state guidelines:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Third General Assembly, First Regular Session, the House of Representatives concurring therein, hereby express their gratitude to faith-based and community organizations working in their communities to improve the lives of the citizens of this state; and

BE IT FURTHER RESOLVED that we support the mission of faith-based and community organizations to provide social services to improve the lives of our citizens; and

BE IT FURTHER RESOLVED that we support and encourage the state and all local governments to work in partnership with faith-based and community organizations to provide quality social services that improve the lives of so many of our citizens in particular and better our society in general; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Governor, the presiding judge of each judicial circuit in this state, and to the director of each state department.

In which the concurrence of the House is respectfully requested.

The following member's presence was noted: Behnen.

### ADJOURNMENT

On motion of Representative Dempsey, the House adjourned until 10:00 a.m., Thursday, March 3, 2005.

### CORRECTIONS TO THE HOUSE JOURNAL

#### AFFIDAVITS

I, State Representative John C. Bowman, District 70, hereby state and affirm that my vote as recorded on Page 434 of the House Journal for March 1, 2005 showing that I voted no was incorrectly recorded. Pursuant to House Rule 88, I ask that the Journal be corrected to show that I voted yes. I further state and affirm that I was present in the House Chamber at the time this vote was taken, I did in fact vote, and my vote or absence was incorrectly recorded.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this affidavit on this 2nd day of March 2005.

/s/ John Bowman  
State Representative

State of Missouri       )  
                                  ) ss.  
County of Cole        )

Subscribed and sworn to before me this 2nd day of March in the year 2005.

/s/ Stephen S. Davis  
Chief Clerk

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I, State Representative Sharon Sanders Brooks, District 37, hereby state and affirm that my vote as recorded on the motion to third read and pass HCS SS SCS SBs 1 & 130, as amended, in the House Journal for March 2, 2005 showing that I voted absent was incorrectly recorded. Pursuant to House Rule 88, I ask that the Journal be corrected to show that

I voted no. I further state and affirm that I was present in the House Chamber at the time this vote was taken, I did in fact vote, and my vote or absence was incorrectly recorded.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this affidavit on this 2nd day of March 2005.

/s/ Sharon Sanders Brooks  
State Representative

State of Missouri       )  
                                  ) ss.  
County of Cole         )

Subscribed and sworn to before me this 2nd day of March in the year 2005.

/s/ Stephen S. Davis  
Chief Clerk

\_\_\_\_\_  
I, State Representative Curt Dougherty, District 53, hereby state and affirm that my vote as recorded on Page 434 of the House Journal for March 1, 2005 showing that I voted absent was incorrectly recorded. Pursuant to House Rule 88, I ask that the Journal be corrected to show that I voted aye. I further state and affirm that I was present in the House Chamber at the time this vote was taken, I did in fact vote, and my vote or absence was incorrectly recorded.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this affidavit on this 2nd day of March 2005.

/s/ Curt Dougherty  
State Representative

State of Missouri       )  
                                  ) ss.  
County of Cole         )

Subscribed and sworn to before me this 2nd day of March in the year 2005.

/s/ Stephen S. Davis  
Chief Clerk

Correct House Journal, Thirty-first Day, Tuesday, March 1, 2005, Page 438, Line 10, by deleting the word “it” and inserting in lieu thereof the following:

“the **House Committee Substitute**”

## COMMITTEE MEETINGS

### APPROPRIATIONS - AGRICULTURE AND NATURAL RESOURCES

Thursday, March 3, 2005, 8:00 a.m. Hearing Room 4.

Markup on Departments of Agriculture and Natural Resources. AMENDED

### APPROPRIATIONS - GENERAL ADMINISTRATION

Thursday, March 3, 2005, 8:00 a.m. Hearing Room 7.

Markup on Statewide Leasing (if necessary), Judiciary, Public Defender, General Assembly.

**INSURANCE POLICY**

Thursday, March 3, 2005, 9:00 a.m. Hearing Room 5.

Executive session may follow. AMENDED

Public hearings to be held on: HB 496, HB 388, HB 417, HB 400, HB 394

**JOINT COMMITTEE ON ECONOMIC DEVELOPMENT, POLICY AND PLANNING**

Thursday, March 3, 2005, 12:30 p.m. Hearing Room 6.

Organizational meeting.

Discuss 7-year extension of Neosho/Newton County enterprise zone.

**JUDICIARY**

Thursday, March 3, 2005, South gallery upon morning adjournment.

Executive session may follow.

Reconsideration votes on HCS HB 208 and HB 567

**LOCAL GOVERNMENT**

Thursday, March 3, 2005, 8:00 a.m. Hearing Room 6.

Executive session will follow.

Public hearings to be held on: HB 444, HB 445, HB 465, HB 479, HB 405, HB 505

**LOCAL GOVERNMENT**

Monday, March 7, 2005, Hearing Room 1 upon afternoon adjournment.

Executive session may follow.

Public hearings to be held on: HB 260, HB 395, HB 577, HB 485

**RULES**

Thursday, March 3, 2005, 9:00 a.m. Hearing Room 3.

Executive session will follow. Reconsider HCS HB 47. AMENDED

Public hearings to be held on: HCS HB 186, HB 48,

HB 269, HCS HB 348, HB 361, HB 580

**SENIOR CITIZEN ADVOCACY**

Thursday, March 3, 2005, 8:00 a.m. Hearing Room 1.

Executive session may follow.

Public hearing to be held on: HB 507

**SPECIAL COMMITTEE ON EDUCATION FUNDING**

Monday, March 7, 2005, Hearing Room 6 upon afternoon adjournment.

Informational only. Report from Joint Committee.

**HOUSE CALENDAR**

THIRTY-THIRD DAY, THURSDAY, MARCH 3, 2005

**HOUSE BILLS FOR SECOND READING**

HB 685 through HB 700

**HOUSE BILL FOR PERFECTION - APPROPRIATIONS**

HCS HB 14 - Lager

**HOUSE BILLS FOR PERFECTION - CONSENT**

(3/01/05)

- 1 HCS HB 135 - Richard
- 2 HB 229 - Portwood
- 3 HB 230 - Portwood
- 4 HCS HB 379 - Cooper (120)

(3/02/05)

- 1 HB 40 - Tilley
- 2 HCS HB 56 - Threlkeld
- 3 HB 127 - Bivins

(3/03/05)

- 1 HCS HB 47 - Brown (30)
- 2 HCS HB 163, 213 & 216 - Smith (14)
- 3 HB 592 - Cooper (120)

**HOUSE BILLS FOR THIRD READING - CONSENT**

- 1 HB 248 - Pearce
- 2 HCS HB 297 - Pearce

**HOUSE CONCURRENT RESOLUTION**

HCR 11, (2-17-05, Pages 351-352) - Sander